

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

EBEN ALEXANDER, III, M.D.

Plaintiff,

v.

BRIGHAM AND WOMEN'S PHYSICIANS
ORGANIZATION, INC., successor to
Brigham Surgical Group Foundation, Inc.,
BOSTON NEUROSURGICAL FOUNDATION
INC., BRIGHAM SURGICAL GROUP
FOUNDATION, INC. DEFERRED
COMPENSATION PLAN, BRIGHAM
SURGICAL GROUP FOUNDATION, INC.
FACULTY RETIREMENT BENEFIT
PLAN, COMMITTEE ON COMPENSATION
OF THE BRIGHAM SURGICAL GROUP
FOUNDATION, INC., and
PETER BLACK, M.D.

Defendants.

Case No. 04-10738 MLW

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Defendants Brigham and Women's Physicians Organization, Inc., Boston Neurosurgical Foundation, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan, Brigham Surgical Group Foundation, Inc. Faculty Retirement Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc., and Peter Black, M.D., (collectively, the "defendants"), hereby move the Court to issue a ruling that the Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan and Faculty Benefit Retirement Plan constitute valid top hat plans under ERISA and to dismiss Counts IX and X of the Complaint. Legal and factual support for this Motion is set forth in defendants' Memorandum of Law in Support of their Motion for Summary Judgment, which is filed herewith.

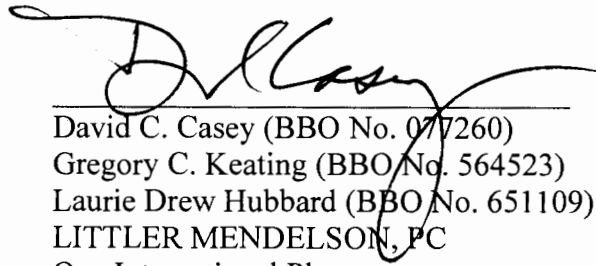
Request for Oral Argument

Defendants respectfully request oral argument on this Motion. As grounds for this request, defendants state that oral argument will assist the Court in clarifying and disposing of the issues raised in this Motion.

Respectfully submitted,

BRIGHAM AND WOMEN'S PHYSICIANS
ORGANIZATION, INC., BOSTON
NEUROSURGICAL FOUNDATION INC.,
BRIGHAM SURGICAL GROUP FOUNDATION,
INC. DEFERRED COMPENSATION PLAN,
BRIGHAM SURGICAL GROUP FOUNDATION,
INC. FACULTY RETIREMENT BENEFIT PLAN,
COMMITTEE ON COMPENSATION OF THE
BRIGHAM SURGICAL GROUP FOUNDATION,
INC., and PETER BLACK, M.D.,

By their attorneys,

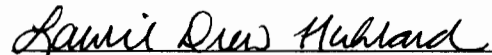


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Dated: May 16, 2005

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing document was served upon the attorney of record for each other party by hand on May 16, 2005.


Laurie Drew Hubbard

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